

EXHIBIT 70

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

4 IN RE: NATIONAL)
PRESCRIPTION) MDL No. 2804
5 OPIATE LITIGATION)
) Case No.
6) 1:17-MD-2804
THIS DOCUMENT RELATES)
7 TO ALL CASES) Hon. Dan A. Polster

8 - - -

9 THURSDAY, NOVEMBER 15, 2018
10 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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12
13 Videotaped deposition of Mark Hartman,
14 held at the offices of BakerHostetler, 200 Civic
15 Center Drive, Suite 1200, Columbus, Ohio, commencing
16 at 9:06 a.m., on the above date, before Carol A. Kirk,
17 Registered Merit Reporter and Notary Public.

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21
22
23 GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
24 deps@golkow.com

<p style="text-align: right;">Page 126</p> <p>1 if we connect.</p> <p>2 From the enactment of the</p> <p>3 requirement to identify suspicious orders, you</p> <p>4 would agree that we should not -- we should not</p> <p>5 ship any orders that we deem suspicious,</p> <p>6 correct?</p> <p>7 MR. PYSER: Object to form.</p> <p>8 Vague.</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 MR. FULLER: We'll mark that as</p> <p>12 Plaintiff's 6.</p> <p>13 ---</p> <p>14 (Cardinal-Hartman Exhibit 6 marked.)</p> <p>15 ---</p> <p>16 BY MR. FULLER:</p> <p>17 Q. All right. Mr. Hartman, when you</p> <p>18 were filling this regulatory role and when --</p> <p>19 the little look back you did, you're aware that</p> <p>20 there were budgetary battles, correct, with</p> <p>21 trying to secure sufficient resources for the</p> <p>22 regulatory department, right?</p> <p>23 MR. PYSER: Object to form.</p> <p>24 A. Boy, there were -- there's always</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. I want to know with QRA --</p> <p>2 A. I was not knowledgeable of that.</p> <p>3 Q. -- or supply chain integrity, if</p> <p>4 you were ever made aware of budget battles</p> <p>5 occurring before, after, at any time?</p> <p>6 A. Any time? Yes. After I left</p> <p>7 Cardinal, Michael had communicated with me.</p> <p>8 Q. That's Mr. Moné, correct?</p> <p>9 A. Yes, Michael Moné. Had</p> <p>10 communicated with me that they were at budget</p> <p>11 time. I was not at Cardinal. And I responded</p> <p>12 to him, basically to "Stay tough. Stick with</p> <p>13 it."</p> <p>14 Q. Because it's a budgetary battle?</p> <p>15 A. Budgetary battle.</p> <p>16 Q. Let's look at that. It's 3904.</p> <p>17 ---</p> <p>18 (Cardinal-Hartman Exhibit 7 marked.)</p> <p>19 ---</p> <p>20 BY MR. FULLER:</p> <p>21 Q. And who was the -- you said the</p> <p>22 CEO even approved your budgets. Who were you</p> <p>23 referring to? Or you had the support.</p> <p>24 A. When I went into role, the -- one</p>
<p style="text-align: right;">Page 127</p> <p>1 budgetary battles.</p> <p>2 Q. Particularly with regulatory,</p> <p>3 right?</p> <p>4 A. That -- I don't know that. I</p> <p>5 wasn't in role. I was in a -- in corporate</p> <p>6 functions. So I -- I didn't spend time there.</p> <p>7 That could be true.</p> <p>8 Q. So did you ever hear of budgetary</p> <p>9 battles going on with regulatory and them not</p> <p>10 getting what they believe the resources they</p> <p>11 needed to do their job with anti-diversion?</p> <p>12 A. In my time period, I not only got</p> <p>13 everything I wanted, I had the support of the</p> <p>14 CEO on that.</p> <p>15 Q. What about outside your time</p> <p>16 period? Are you aware of budgetary battles and</p> <p>17 regulatory not getting what they needed to do</p> <p>18 their job?</p> <p>19 A. I was not aware of regulatory. I</p> <p>20 was certainly aware of --</p> <p>21 Q. What were you aware of?</p> <p>22 A. Well, I was on the corporate</p> <p>23 functions. It's a corporate -- it's a</p> <p>24 corporate -- budget battles happen all the time.</p>	<p style="text-align: right;">Page 129</p> <p>1 of the meetings I had prior to taking the role</p> <p>2 was with Kerry Clark, and we talked about the</p> <p>3 role, and I talked about the fact that I would</p> <p>4 need his support before I accepted the role.</p> <p>5 Q. Right.</p> <p>6 A. I would need his support to get</p> <p>7 whatever I needed to do whatever I needed to do.</p> <p>8 Q. Because from the information that</p> <p>9 you already knew, you knew it was going to</p> <p>10 require additional resources and additional</p> <p>11 staff to be able to do the job the way you</p> <p>12 wanted it to be done, correct?</p> <p>13 A. For my time period, that's</p> <p>14 correct.</p> <p>15 Q. Okay. So let's look at --</p> <p>16 MR. FULLER: Is this Number 7?</p> <p>17 MS. QUEZON: Yes.</p> <p>18 BY MR. FULLER:</p> <p>19 Q. All right. So let's look at</p> <p>20 Exhibit Number 7. It's 3904 in the upper right;</p> <p>21 is that correct, Mr. Hartman?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And this is that e-mail</p> <p>24 between you and Mr. Moné, isn't it?</p>

<p style="text-align: right;">Page 130</p> <p>1 A. Correct.</p> <p>2 Q. And it was sent back and forth</p> <p>3 between your personal accounts. That's not your</p> <p>4 Cardinal e-mail account, is it?</p> <p>5 A. Correct.</p> <p>6 Q. And Mr. Moné, what's his e-mail</p> <p>7 address there?</p> <p>8 A. J-a-t-r-o --</p> <p>9 Q. I think it's a G.</p> <p>10 A. I'm sorry.</p> <p>11 G-a-t-o-r-x-j-d1210@msn.com.</p> <p>12 Q. Is he a Gator fan?</p> <p>13 A. He is a big Gator fan.</p> <p>14 Q. Well, me and him may get along</p> <p>15 because I went to the University of Florida.</p> <p>16 A. I hope you do. He's a good guy.</p> <p>17 Q. Good. It seems like you guys got</p> <p>18 along even outside of work; is that right?</p> <p>19 A. Oh, yes.</p> <p>20 Q. And is he still with the company?</p> <p>21 A. Yes.</p> <p>22 Q. And what is his position</p> <p>23 currently, if you know?</p> <p>24 A. I don't know the title. I believe</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. I can imagine so. I can imagine</p> <p>2 so.</p> <p>3 All right. So let's take a look</p> <p>4 at this. Mr. Hartman says, "Hey, Mark" -- or</p> <p>5 excuse me. Mr. Moné says, "Hey Mark." And then</p> <p>6 read the second sentence there.</p> <p>7 A. "We lost in the budget defense big</p> <p>8 time and Giacomini is mounting an attack on QRA</p> <p>9 and we don't seem to have a strategy or at least</p> <p>10 we are not being kept informed."</p> <p>11 Q. Who is Giacomini? Tell the jury</p> <p>12 who Giacomini is.</p> <p>13 A. John, I believe at that time, was</p> <p>14 the president of the pharma division at</p> <p>15 Cardinal.</p> <p>16 Q. And I'll represent to you that</p> <p>17 documents are a little unclear, but it indicates</p> <p>18 from 2008 to sometime in 2010 he was executive</p> <p>19 vice president of operations.</p> <p>20 A. Yes.</p> <p>21 Q. And then in 2010, he became</p> <p>22 president of U.S. pharmaceutical.</p> <p>23 Does that seem to coincide with</p> <p>24 your recollection?</p>
<p style="text-align: right;">Page 131</p> <p>1 he's in regulatory, the regulatory office.</p> <p>2 Q. Okay. And this is sent to you</p> <p>3 shortly after you leave; isn't that true?</p> <p>4 A. May 26, 2010. I had been gone</p> <p>5 about a quarter.</p> <p>6 Q. So -- because you left in</p> <p>7 February --</p> <p>8 A. Yes.</p> <p>9 Q. -- right?</p> <p>10 So March, April, and then May?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And so we lay the</p> <p>13 groundwork here, the budgetary time frame runs</p> <p>14 from July 1 to June 30, correct?</p> <p>15 A. Yes.</p> <p>16 Q. That's the fiscal year?</p> <p>17 A. That's the fiscal year, yes. At</p> <p>18 that time, it was. I suppose it still is.</p> <p>19 Q. Sure.</p> <p>20 And the budgetary process,</p> <p>21 therefore, takes part in probably the first and</p> <p>22 second quarter of the year, right?</p> <p>23 A. Yeah. Budgetary -- yeah, they go</p> <p>24 all year long.</p>	<p style="text-align: right;">Page 133</p> <p>1 A. When in 2010 did he --</p> <p>2 Q. That's the part that's unclear.</p> <p>3 I'm not sure.</p> <p>4 A. Yeah, so I'm not sure what role</p> <p>5 John was in here. But to your point, I do</p> <p>6 recall he was executive vice president of</p> <p>7 operations later on somewhere in 2010 time</p> <p>8 frame.</p> <p>9 Q. Right. So he's either executive</p> <p>10 VP of ops or he was president of pharmaceutical,</p> <p>11 right?</p> <p>12 A. Yeah.</p> <p>13 Q. Fair enough.</p> <p>14 And he apparently -- or at least</p> <p>15 according to Mo- -- and did you actually speak</p> <p>16 to Mr. Moné about this?</p> <p>17 A. I don't recall any live</p> <p>18 conversations. I think --</p> <p>19 Q. Just the e-mail?</p> <p>20 A. Just the e-mail.</p> <p>21 Q. And he indicates that "We lost the</p> <p>22 budget defense big time." Which indicates his</p> <p>23 budget got cut, right?</p> <p>24 MR. PYSER: Object to form.</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes. So --</p> <p>2 Q. They cut his budget.</p> <p>3 A. -- I think you have to put it in</p> <p>4 context of "big time." What Michael was</p> <p>5 fighting for, as you'll see in a later e-mail,</p> <p>6 was one position that they were fighting for,</p> <p>7 which was an administrative position. And the</p> <p>8 argument was, I believe at the time -- again, my</p> <p>9 recollection is that the system was now doing</p> <p>10 that work and they would use that head count,</p> <p>11 that person, in another role someplace else.</p> <p>12 Q. And he goes on to say, that</p> <p>13 "Giacomin is mounting an attack on QRA."</p> <p>14 A. Yes.</p> <p>15 Q. I mean, the guy in operations --</p> <p>16 A. Right.</p> <p>17 Q. -- right?</p> <p>18 And you had a little bit of a</p> <p>19 concern about reporting to people in operations</p> <p>20 at one time, too, didn't you?</p> <p>21 A. Well, I made sure, based on my</p> <p>22 role, that I stayed independent from anybody</p> <p>23 else to influence me.</p> <p>24 Q. Particularly operations, because</p>	<p style="text-align: right;">Page 136</p> <p>1 A. The fourth -- the fourth floor was</p> <p>2 where the leadership team for pharma was</p> <p>3 officed. I was there. In my tenure, I moved us</p> <p>4 off of the fourth to the third floor where the</p> <p>5 regulatory group had been. So they remained --</p> <p>6 evidently they remained on the third floor. So</p> <p>7 when he says "on the fourth floor," he's talking</p> <p>8 about physical proximity, I believe.</p> <p>9 Q. Right. To decision-makers?</p> <p>10 A. I suppose.</p> <p>11 Q. And it's the lack of visibility,</p> <p>12 just what you mentioned, down on the third --</p> <p>13 listen. Maybe you've forgotten.</p> <p>14 A. You're in the -- you're in the</p> <p>15 budget battle -- you know, got to have what you</p> <p>16 need, and we had gotten everything we needed.</p> <p>17 And he was fighting for one head count. To him,</p> <p>18 that was big. We had talked about it before I</p> <p>19 left. You know, keep that position.</p> <p>20 Q. And this is Moné. So this is the</p> <p>21 QRA side, right, quality regulatory affairs?</p> <p>22 A. Well, and he was specifically the</p> <p>23 anti-diversion side.</p> <p>24 Q. The anti-diversion?</p>
<p style="text-align: right;">Page 135</p> <p>1 what are they going to want to do? Just what</p> <p>2 they did here --</p> <p>3 A. Well, they didn't --</p> <p>4 Q. -- is attack?</p> <p>5 A. I think in the later e-mail you'll</p> <p>6 find that didn't happen.</p> <p>7 Q. We'll see. We'll see. Let's keep</p> <p>8 going.</p> <p>9 A. You have all my documents, right?</p> <p>10 Q. I -- we have them all. Your</p> <p>11 counsel has them all, right?</p> <p>12 A. Yes. Everything I -- I gave him</p> <p>13 everything that I have.</p> <p>14 Q. Okay.</p> <p>15 A. So -- and later on he addresses</p> <p>16 that he kept the head count. And that was the</p> <p>17 whole commentary there about this.</p> <p>18 Q. Let's keep going.</p> <p>19 "Giacomin is mounting an attack on</p> <p>20 QRA. We don't have a strategy or at least we</p> <p>21 are not being kept informed. And it's because</p> <p>22 we have no presence on the fourth."</p> <p>23 What's "the fourth"? Tell the</p> <p>24 jury what "the fourth" is.</p>	<p style="text-align: right;">Page 137</p> <p>1 A. Yes.</p> <p>2 Q. And how many people did he</p> <p>3 actually have?</p> <p>4 A. At that time, I don't know, but --</p> <p>5 I'd have to see his org chart. I mean, when we</p> <p>6 built it out, we had six, seven, eight in his</p> <p>7 group, between the pharmacists --</p> <p>8 Q. Right.</p> <p>9 A. -- the investigators and the</p> <p>10 administrative staff that supported that whole</p> <p>11 group on his side.</p> <p>12 Q. Sure.</p> <p>13 A. And then there was Steve Reardon's</p> <p>14 side.</p> <p>15 Q. Which is -- what do you call that</p> <p>16 side?</p> <p>17 A. He was -- he was regulatory</p> <p>18 affairs.</p> <p>19 Q. Regulatory affairs.</p> <p>20 So on Moné's side, if you take</p> <p>21 away one of seven, that's a pretty big cut.</p> <p>22 Greater than 10 percent at least, right?</p> <p>23 A. Well, just for perspective, what</p> <p>24 we had talked about is that our systems had</p>

<p style="text-align: right;">Page 138</p> <p>1 begun to do lots of the administrative work as 2 opposed to human beings. So in my view, as you 3 can -- I think you can see through my e-mail, 4 you know, it's a budget battle. You could lose, 5 but stay after it. Don't lose it. Which he 6 didn't.</p> <p>7 Q. Well, you're telling him, "Keep up 8 the good fight."</p> <p>9 A. Which he didn't. And he retained 10 his positions, and he retained what he needed.</p> <p>11 Q. So we'll talk about that. But you 12 also are aware that prior to your taking this 13 position, there are also budget battles and 14 deficiencies in what the regulatory department 15 had as well, aren't you?</p> <p>16 A. When you said -- before my time, I 17 was not intimately involved with regulatory 18 affairs, so I -- I'm not aware of the budget 19 battles, if you will, that they had. I wasn't 20 aware. I wasn't with them. I didn't 21 participate in their parts of the meetings where 22 we'd go through the budget, you know, the budget 23 needs, the budget requirements, the things we 24 were going to do for the next year.</p>	<p style="text-align: right;">Page 140</p> <p>1 at borschow have created another firestorm on 2 the price diversion side."</p> <p>3 Q. It says "our unpopular decisions 4 were correct." Do you know what he's referring 5 to?</p> <p>6 A. I have -- I have no knowledge what 7 he's referring to. I can surmise that. In our 8 role as an anti-diversion, we made plenty of 9 calls, and we certainly discussed it. And the 10 calls that we made were debated, at the end of 11 the day. What Michael said we were going to do, 12 and I supported, or if I was going to be the 13 decision-maker on it, which a few of them I 14 was -- I don't recall which ones -- we called 15 the shot.</p> <p>16 Q. And it was the unpopular call 17 related to anti-diversion in not shipping 18 controlled substances, right?</p> <p>19 MR. PYSER: Object to form. 20 Speculation.</p> <p>21 Q. Those were the tough calls?</p> <p>22 A. Well, the tough calls are anytime 23 you have a -- certainly anytime you have a 24 customer and they hit a threshold and then</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Let me ask, when you came into the 2 department, clearly needed to make changes, 3 didn't you?</p> <p>4 A. Again, when I was just coming into 5 the department, I didn't understand what was 6 happening. I didn't know much about it.</p> <p>7 Q. But didn't you already know that 8 you needed more resources?</p> <p>9 A. But I -- well, when I talked to 10 Kerry, that's exactly what any good executive 11 would do. The first thing they do is --</p> <p>12 Q. Absolutely.</p> <p>13 A. -- ask for the money, ask for the 14 support, and that's what I got during my time 15 frame.</p> <p>16 Q. And you weren't going to do it to 17 be wasteful, were you?</p> <p>18 A. You don't do that.</p> <p>19 Q. Fair enough.</p> <p>20 Keep reading on -- "after the lack 21 of visibility." What does Mr. Moné says -- say?</p> <p>22 A. "We are about to find out that 23 some of our recent unpopular decisions were 24 correct, though the yelling continues. Issues</p>	<p style="text-align: right;">Page 141</p> <p>1 you're making -- doing the review around, is 2 that a suspicious order, what other information 3 is there? And do -- and then does it -- do we 4 need to deem it a suspicious order? They're all 5 tough calls.</p> <p>6 Q. Absolutely. And that was y'all's 7 obligation -- I say y'all, regulatory's 8 obligation was to make those tough decisions, 9 those unpopular-by-everybody-else decisions, 10 correct?</p> <p>11 A. And we did.</p> <p>12 Q. And that's why you wanted to work 13 out from underneath operations or anybody else 14 who you mentioned may have influence upon you, 15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Because you didn't want that to 18 happen because you saw and you know that it 19 wouldn't be the best way to run the regulatory 20 department; isn't that true?</p> <p>21 A. Being separate, have a completely 22 independent voice around what actions we took 23 was how I saw to get the job done, and during my 24 time frame, that's what we did.</p>

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1 Q. And when you came into the
2 department and made those changes, that's not
3 the way it was being done. It was oversaw by
4 those who didn't like unpopular decisions,
5 correct?
6 MR. PYSER: Object to form.
7 A. You know, I don't know where the
8 reporting structure was. Again, I was heads
9 down in a corporate function and some pretty big
10 things we had going on. I was not operating in
11 the division at that time. So I -- you know,
12 Steve Reardon will certainly be able to respond
13 to those questions as to where we were, what we
14 were doing.
15 Q. Now, let's go up to your response.
16 A. Okay.
17 Q. You say, "Wow, an accident" --
18 now, we didn't read the part where Mr. Moné got
19 into a car accident, right?
20 A. Don't want to read that?
21 Q. No, no.
22 A. That's --
23 Q. That's important?
24 A. Well, he takes care of people

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1 there.
2 Q. I understand. I understand.
3 And then you mentioned the budget
4 battle that we've already talked about, right?
5 That's what you called it?
6 A. Oh, yeah. Well, there isn't --
7 there isn't a -- if you want to define it any
8 different way, any discussion you have around
9 budgets are always battles around what you need
10 and then what you want. And what you try to
11 decipher as a corporation is, the needs, what
12 are the needs to help our business and to move
13 it forward, support our customers?
14 The wants oftentimes get layered
15 in there, and they're difficult to discern. You
16 know, big companies, big budgets. And so I
17 always refer to it as the budget battles.
18 Q. And it clearly was to Mr. Moné.
19 Read what you go on to say.
20 A. "You know there is a likelihood
21 you will not get the head count backfill."
22 Q. Keep going.
23 A. "I would not cave on that, but
24 privately prepare for the worst."

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1 Q. Finish out.
2 A. "I'll certainly see if I can get
3 those guys a note to support you and thusly
4 Shirlene."
5 Q. And Shirlene is Ms. Justus, right?
6 A. Yes.
7 Q. Okay. And she actually came to
8 that division or that department with you when
9 you took on that role?
10 A. That's right.
11 Q. And she had been working with you
12 previously in your other roles at Cardinal?
13 A. Correct.
14 Q. And is she still there, as far as
15 you know?
16 A. As far as I know.
17 Q. Okay. And it sounds like -- it
18 next goes on to say, "It sounds like the
19 situation is unfolding a bit like we projected."
20 Right?
21 A. That's what I said.
22 Q. Continue reading for us.
23 A. "It's a shame if the department is
24 relegated to less-than-needed authority or

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1 investment. It will haunt the organization at
2 some point."
3 Q. Now, let me stop you there. Is
4 this the haunting you're referring to?
5 MR. PYSER: Object to form.
6 A. The --
7 Q. The haunting you're referring to.
8 These bad decisions related to regulatory and
9 these lawsuits that have now been brought upon
10 the company for creating this epidemic. Is that
11 the haunting you're referring to?
12 A. No, that's not what I'm referring
13 to.
14 Q. What haunting are you referring
15 to?
16 MR. PYSER: Object to form. And
17 objection on the last one too. Same
18 objection.
19 A. I'm talking about the fact that
20 the haunting is taking away from the
21 organization a head count that we felt we needed
22 badly. Didn't want. We felt we needed. Other
23 people in the organization could think it's a
24 want or a need that we -- excuse me. A want

<p style="text-align: right;">Page 146</p> <p>1 that we were just putting forward.</p> <p>2 We're saying here the haunting</p> <p>3 part of this is to lose that head count. So --</p> <p>4 and if any -- and, of course, it should say -- I</p> <p>5 wrote that, authority or investment. The whole</p> <p>6 point is, while I was there, I had everything</p> <p>7 that I wanted, and the investment was behind me.</p> <p>8 And that was -- what I didn't want Michael to</p> <p>9 lose was that position of investment that he</p> <p>10 felt he needed.</p> <p>11 Q. From others in the organization,</p> <p>12 right?</p> <p>13 A. Sure, yes.</p> <p>14 Q. And now he feels like Giacomini is</p> <p>15 attacking him, and the haunting that's coming,</p> <p>16 you're right, is the lack of support, the lack</p> <p>17 of investment. And the result is what we see</p> <p>18 here today, an opioid epidemic going on in our</p> <p>19 country; isn't that true?</p> <p>20 MR. PYSER: Object to form.</p> <p>21 A. That was not my inference here.</p> <p>22 My inference was around the budget and what</p> <p>23 Michael needed in order to do the job for</p> <p>24 Cardinal Health. And if you know from further</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Oh, yeah.</p> <p>2 I don't recall. I'm guessing, but</p> <p>3 I'm going to assume in the seven, eight, nine,</p> <p>4 ten range. I'm not sure.</p> <p>5 Q. And now -- and Mr. Moné's side,</p> <p>6 supply chain integrity, was just being created,</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And that hadn't been fully</p> <p>10 staffed yet, correct?</p> <p>11 A. No.</p> <p>12 Q. No, I'm right, it hadn't been</p> <p>13 fully staffed, or no, I'm wrong and it had been</p> <p>14 fully staffed?</p> <p>15 A. Ask me the question, and I'll give</p> <p>16 you that answer.</p> <p>17 Q. Fair enough.</p> <p>18 Mr. Hartman, when you came into</p> <p>19 the regulatory department, Mr. Moné had already</p> <p>20 been hired, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And his section was called what</p> <p>23 again?</p> <p>24 A. Anti-diversion.</p>
<p style="text-align: right;">Page 147</p> <p>1 e-mails, he retained his position, and budget</p> <p>2 was good.</p> <p>3 Q. And you know we're now facing an</p> <p>4 opioid epidemic in this country, don't you?</p> <p>5 MR. PYSER: Object to form.</p> <p>6 A. I sure do.</p> <p>7 Q. And we have been for a long time,</p> <p>8 haven't we?</p> <p>9 MR. PYSER: Object to form.</p> <p>10 A. I'd agree with "long time."</p> <p>11 MR. FULLER: Let's take another</p> <p>12 break.</p> <p>13 THE VIDEOGRAPHER: The time is now</p> <p>14 11:47.</p> <p>15 (Recess taken.)</p> <p>16 THE VIDEOGRAPHER: The time is now</p> <p>17 12:00 p.m. Back on the record.</p> <p>18 BY MR. FULLER:</p> <p>19 Q. All right, Mr. Hartman. We were</p> <p>20 talking about the budget battles that were</p> <p>21 occurring. How many people were in regulatory</p> <p>22 when you came into that position in December of</p> <p>23 2007?</p> <p>24 Mr. Reardon was there, correct?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. Anti-diversion.</p> <p>2 The staffing for his department</p> <p>3 had not been completed as of that point in time,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. So let's go -- and you just</p> <p>7 testified you're not sure about the staffing</p> <p>8 when you came in.</p> <p>9 Did you look at anything to</p> <p>10 indicate what the staff had been in the past for</p> <p>11 anti-diversion, the regulatory departments?</p> <p>12 A. Like all things, I'm sure we</p> <p>13 looked back. We looked at it. And we just put</p> <p>14 stakes in the ground and moved forward and what</p> <p>15 do we need and how do we get those resources.</p> <p>16 So ...</p> <p>17 Q. Let's go to 4765.</p> <p>18 ---</p> <p>19 (Cardinal-Hartman Exhibit 8 marked.)</p> <p>20 ---</p> <p>21 BY MR. FULLER:</p> <p>22 Q. Mr. Hartman, as you can see, this</p> <p>23 is an Operation 1 Cardinal Health quality</p> <p>24 management meeting document, correct?</p>

<p style="text-align: right;">Page 150</p> <p>1 A. Yes.</p> <p>2 Q. And it's dated January 13, 14 of</p> <p>3 2005; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. This would have been when</p> <p>6 you were with the company, just not in</p> <p>7 regulatory; is that fair?</p> <p>8 A. Yes.</p> <p>9 Q. So if you turn all the way back to</p> <p>10 page 64. We want to take a quick look at just a</p> <p>11 couple things related to the regulatory</p> <p>12 department at the time.</p> <p>13 During that time it was still</p> <p>14 called QRA or quality regulatory affairs; is</p> <p>15 that correct?</p> <p>16 A. I agree with that. I -- probably.</p> <p>17 Q. Okay. It says here the QRA model.</p> <p>18 Do you see that?</p> <p>19 A. Where -- are you on the top side</p> <p>20 or --</p> <p>21 Q. Yes, sir. If you look on the</p> <p>22 screen, because those printouts are hard to</p> <p>23 read.</p> <p>24 A. Yeah.</p>	<p style="text-align: right;">Page 152</p> <p>1 is very important to the operations of the</p> <p>2 business, isn't it?</p> <p>3 A. Yes.</p> <p>4 Q. Having sufficient resources so</p> <p>5 that people can do their jobs is also</p> <p>6 detrimental for the compliance department, isn't</p> <p>7 it?</p> <p>8 A. It's important to have the right</p> <p>9 resources to do the regulatory job.</p> <p>10 Q. And not just the right resources</p> <p>11 and number of people, but also the right</p> <p>12 support, like you said? You specifically went</p> <p>13 to Clark and got his assurance that he would</p> <p>14 back you on what you needed to be able to do the</p> <p>15 job the way you saw fit, didn't you?</p> <p>16 A. I did that.</p> <p>17 Q. If we go on, it says "Need to</p> <p>18 understand" -- or excuse me. "Corporate quality</p> <p>19 organization - not sure what their role should</p> <p>20 be."</p> <p>21 And our screen went blank. There</p> <p>22 we go. Let's try that again.</p> <p>23 The next line, Mr. Hartman, reads,</p> <p>24 "Corporate quality organization - not sure what</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. The screen in front of you may</p> <p>2 help.</p> <p>3 A. Oh. Gotcha.</p> <p>4 Q. She blows it up so our eyesights</p> <p>5 can work.</p> <p>6 So, Mr. Hartman, this indicates,</p> <p>7 on page 64 here, that it's internal client</p> <p>8 perspective of QRA; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And it says, "The QRA</p> <p>11 model." Read the first bullet point to us.</p> <p>12 A. "Quality is not a mindset at</p> <p>13 Cardinal Health. We are not proactive. This is</p> <p>14 not a high enough priority today."</p> <p>15 Q. Then it goes on to say, "When</p> <p>16 financials are tight, quality suffers," doesn't</p> <p>17 it?</p> <p>18 A. It says that.</p> <p>19 Q. Now, during this time, you weren't</p> <p>20 in this department; is that fair?</p> <p>21 A. That's correct.</p> <p>22 Q. Now, do you know from your</p> <p>23 experience in the department that having a</p> <p>24 regulatory mindset, having a compliance mindset,</p>	<p style="text-align: right;">Page 153</p> <p>1 the role should be."</p> <p>2 Corporate quality should have an</p> <p>3 absolute laser beam on what their role should be</p> <p>4 in the organization, shouldn't they? They've</p> <p>5 got to know what their focus is to be able to do</p> <p>6 their jobs?</p> <p>7 A. In 2005, I -- again, we were -- we</p> <p>8 were organizing ourselves differently. I don't</p> <p>9 know what this document is, so I'd need to take</p> <p>10 some time on it so that I could -- I won't be</p> <p>11 able to answer your question because I -- that</p> <p>12 might be the new organization of a department.</p> <p>13 Q. And that's fair. But you would</p> <p>14 agree, would you not, that corporate quality</p> <p>15 should know what their role is?</p> <p>16 A. Corporate quality should know what</p> <p>17 their role is given a new department has time to</p> <p>18 establish what they're about and the resources</p> <p>19 that they have and how it was reorganized</p> <p>20 potentially.</p> <p>21 Q. Absolutely.</p> <p>22 Then it says, "Need to understand</p> <p>23 roles and what will be at Business or Segment</p> <p>24 level."</p>

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1 Do you see that? Do you see that
2 there? Did I read it correctly?
3 A. Yeah, yeah, I see it.
4 Q. Okay. And then, "Corporate
5 Centers of Excellence would be of value."
6 You would agree with that,
7 wouldn't you?
8 A. Yes.
9 Q. And then, "Would like to see
10 stronger regulatory affairs" --
11 A. Let me come back on that.
12 Corporate Centers of Excellence. Okay. If I'm
13 going to respond to this, I need to look at this
14 document. I think I'm aware of the time period
15 we're talking about. And that time period would
16 be the genesis of responses that I can give you
17 as opposed to looking at one segment on here.
18 Can I do that?
19 Q. Well, here's the thing. Your
20 counsel wants to finish by 12:30 to take a lunch
21 break, and that's fine, but I want to finish
22 with this document. And I have a limited amount
23 of time.
24 A. Yes.

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1 Q. And I'm not going to waste my
2 seven hours that we have letting you go through
3 a big old document that somebody hadn't bothered
4 to show you before.
5 A. I -- can I just take a minute?
6 Q. Absolutely.
7 MR. PYSER: You can take as much
8 time as you want. If he wants to show
9 you a document --
10 MR. FULLER: And we'll go off the
11 record and you'll review it, and then
12 we'll come back on the record.
13 MR. PYSER: Wait till there's a
14 question.
15 A. Yeah.
16 Q. You were the one that said you
17 wanted to take a look at it, Mr. Hartman. Go
18 ahead.
19 A. I'm vaguely in the time frame. I
20 wasn't in quality. I'll take your questions.
21 Q. Okay. So the next section is
22 "People."
23 Do you see that there?
24 A. Yes.

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1 Q. And read the first bullet point.
2 A. "Under-resourced today."
3 Q. Not enough people, not enough
4 resources. That's what it's saying, correct?
5 MR. PYSER: Object to form.
6 A. Yeah. This is a document in
7 response to the reorganization at Cardinal, and
8 I oversaw and was a part of watching all of
9 these departments. It's a big, big
10 transformation. Big. Lots of involvement.
11 Huge changes. I'll just tell you that I didn't
12 have a function that didn't come in with
13 anything different than this kind of lineup of
14 under-resourced or underfunded or needs money.
15 Q. Okay. We'll -- and we'll deal
16 with that.
17 A. And everybody had -- and that gets
18 back to the budget battle comment where I talked
19 to you about wants -- or needs versus wants.
20 And what we found in all of this, as we moved
21 forward to reorganize and make ourselves more
22 efficient, there were a tremendous number of
23 wants. What we had to get at were the needs,
24 and I don't know how this resulted.

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1 Q. We'll see. And here's the thing,
2 Mr. Hartman, because Cardinal's entrusted with
3 dealing with what has been labeled and
4 legislatively enacted as dangerous drugs.
5 You're aware of that, right?
6 Control IIs are --
7 MR. PYSER: Object to form.
8 Q. -- by definition dangerous drugs.
9 You're aware of that, correct?
10 A. Yes.
11 Q. This is not a place to skimp. You
12 would agree with that? Regulatory needs to be
13 beefed up so they can do the job they need to do
14 in compliance with the regulations we talked
15 about earlier.
16 We can both agree on that as well,
17 correct?
18 MR. PYSER: Object to form.
19 A. Well, the only -- the only thing I
20 agree with is this is a document that came out
21 in a major transformation from one of the
22 functions about, we need more money, we need
23 more resources. And the way to do that is to
24 highlight things like you're seeing right here,

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1 and I saw that in every single department that
2 came forward.
3 Q. Fair enough.
4 A. And it doesn't mean that they were
5 underfunded or they were under-resourced. That
6 does not say that here, when you get to the
7 corporate level of looking at the functions.
8 Q. Hold on. So you're the doc --
9 saying this document doesn't say they're not
10 under-resourced?
11 A. No. I'm saying that what's said
12 here is not necessarily a corporate position or
13 where we were at on quality as to how Cardinal
14 saw it. This is what the department is saying.
15 Q. Exactly. Exactly, Mr. Hartman.
16 It is the QRA department saying we're
17 under-resourced.
18 A. But it doesn't say it's -- it
19 doesn't mean it's necessarily right or that they
20 are under-resourced as we develop the
21 departments in this new organization.
22 Q. Sure. It doesn't mean it's true.
23 It's just what they're saying?
24 A. Yes.

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1 Q. Fair enough.
2 The next bullet point says,
3 "People we have are good. Don't have enough
4 bench strength."
5 And you would agree again, that in
6 regulatory you have to have the depth. You have
7 to have the good people up and down the ladder,
8 correct?
9 A. You have to have good people.
10 Q. It says then, "Need to upgrade and
11 deepen talent."
12 You don't disagree with that
13 either, do you?
14 A. There isn't a budget discussion, a
15 department I've run, a place I've been, a thing
16 I've actually tried to execute and get done
17 where "need to upgrade" and "deepen talent"
18 doesn't exist. I agree with it.
19 Q. And then, "Not enough people"
20 again, right? That's what it says?
21 A. It says that, yes.
22 Q. That's what the QRA department is
23 saying during this time frame?
24 A. That's what they said.

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1 Q. And then go to processes.
2 "The process" -- and you're aware
3 of this. This is the regulatory department,
4 bullet point 1: "Keeps us out of trouble but
5 not very proactive or innovative."
6 You would agree, would you not,
7 that you need to be proactive in regulatory?
8 A. Prior to my time, the "keep us out
9 of trouble," I agree with. The "not very
10 proactive or interactive," I don't know to agree
11 with you in the matter that we're talking about.
12 Cardinal was a big company. This is referring
13 to broad specter regulatory groups.
14 Q. Let's talk about it.
15 Are you aware of the New York AG
16 action for selling and diverting related to
17 price fixing?
18 MR. PYSER: Object to form.
19 A. I'm aware of it -- or I'm sorry.
20 MR. PYSER: Misstates evidence.
21 Q. Go ahead.
22 A. Ask me again.
23 Q. Are you aware of the New York AG
24 action related to diversion and price diversion?

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1 MR. PYSER: Same objection.
2 A. I'm aware of it.
3 Q. Okay. And Cardinal then -- after
4 that action happened, then took steps to put
5 policies and procedures into place to react to
6 it, correct?
7 A. I -- again, it's before my time.
8 Q. So you don't know?
9 A. I don't know in that case what was
10 done.
11 Q. Fair enough.
12 In the 2000- --
13 A. But understand that the New York
14 Attorney General's action of price diversion is
15 completely separate and different from the
16 matter we're talking about in anti-diversion.
17 Completely separate. The two do not intermix.
18 There is nothing there that puts
19 the two of those two things together, other
20 than, while I was in role, Michael Moné did have
21 that action put under him for some period of
22 time. I didn't work on it. I didn't spend any
23 time on it. And I think we were downstream on
24 it, if you will.

<p style="text-align: right;">Page 162</p> <p>1 Q. So your understanding is that the</p> <p>2 New York AG action didn't involve diversion?</p> <p>3 MR. PYSER: Object to form.</p> <p>4 Misstates testimony.</p> <p>5 A. Price diversion.</p> <p>6 Q. Right.</p> <p>7 And also divert -- the New York AG</p> <p>8 agreement indicates that they are selling to</p> <p>9 individuals that they know are diverting</p> <p>10 controlled substances. They're selling to</p> <p>11 closed-door pharmacies in Arizona that are</p> <p>12 turning around and shipping to Kentucky, right?</p> <p>13 MR. PYSER: Object to form.</p> <p>14 A. I don't know. I was -- I wasn't</p> <p>15 involved in the matter.</p> <p>16 Q. And then in 2007, you get pulled</p> <p>17 into this new position?</p> <p>18 A. Yes.</p> <p>19 Q. In reaction to what?</p> <p>20 A. The immediate suspension orders.</p> <p>21 Q. The immediate suspension orders.</p> <p>22 The lack of being proactive,</p> <p>23 because there was meetings going on with the DEA</p> <p>24 all the way back in 2005 warning them about</p>	<p style="text-align: right;">Page 164</p> <p>1 they weren't.</p> <p>2 Q. Okay. So what we can agree to is</p> <p>3 that QRA indicates on this slide that it keeps</p> <p>4 us, Cardinal, out of trouble, but is not very</p> <p>5 proactive or innovative. That's what it says,</p> <p>6 isn't it?</p> <p>7 A. That's what it says.</p> <p>8 Q. Okay. The next point -- let's go</p> <p>9 down to -- yeah, the next one, "Site level</p> <p>10 measurements and incentives can hinder</p> <p>11 investment and quality."</p> <p>12 That's also a concern that -- at</p> <p>13 least they were having at this point in time,</p> <p>14 right?</p> <p>15 A. That's what they said.</p> <p>16 Q. Okay. Now, you made a good point,</p> <p>17 Mr. Hartman. You said, look, this may have just</p> <p>18 been at this one time, this big reorganization.</p> <p>19 Were you ever shown anything to</p> <p>20 indicate this same problem between 2005 and the</p> <p>21 time you came into the position? Did anybody</p> <p>22 ever share anything with you that would indicate</p> <p>23 this is a systemic problem, a problem with the</p> <p>24 entire system?</p>
<p style="text-align: right;">Page 163</p> <p>1 Internet pharmacies, which was the main issue in</p> <p>2 the immediate suspension orders in 2007, wasn't</p> <p>3 it?</p> <p>4 MR. PYSER: Object to form.</p> <p>5 Q. Do you know?</p> <p>6 A. That's a long statement you just</p> <p>7 made. What -- I need to hear your question so I</p> <p>8 can answer you.</p> <p>9 Q. Sure.</p> <p>10 You said that you didn't agree</p> <p>11 that regulatory wasn't proactive. Proactive</p> <p>12 would entail taking steps before being forced</p> <p>13 to, right? Reacting, acting in advance of,</p> <p>14 correct?</p> <p>15 A. If you're asking me if we were not</p> <p>16 reactive, this was prior to my time, and what</p> <p>17 I've stated to you is that this is a budget</p> <p>18 discussion, and as you look at it, this might be</p> <p>19 the appropriate -- this might be a -- Gary</p> <p>20 Dolch's prep meeting. I have no idea what was</p> <p>21 originally -- which was finally presented, if</p> <p>22 what I'm looking at here is a document.</p> <p>23 So I can't answer you on it. I</p> <p>24 don't have knowledge of where they were or where</p>	<p style="text-align: right;">Page 165</p> <p>1 A. In my roles, I don't recall</p> <p>2 conversation -- a conversation around -- or</p> <p>3 conversations around regulatory in my time</p> <p>4 period.</p> <p>5 Q. So let's go to 36- -- or excuse</p> <p>6 me. 3868.</p> <p>7 A. Oh, another document?</p> <p>8 Q. Yes, sir.</p> <p>9 - - -</p> <p>10 (Cardinal-Hartman Exhibit 9 marked.)</p> <p>11 - - -</p> <p>12 MR. FULLER: What number am I up</p> <p>13 to?</p> <p>14 MS. SHIVERS: This is 9.</p> <p>15 MR. FULLER: This is going to be</p> <p>16 Plaintiff's Exhibit Number 9.</p> <p>17 MR. PYSER: Counsel, do you have</p> <p>18 another copy of Exhibit 9?</p> <p>19 MR. FULLER: I'm sure we do.</p> <p>20 MS. SHIVERS: No.</p> <p>21 MR. FULLER: That's the only one</p> <p>22 we have, I think. See if we have</p> <p>23 another one. We'll check.</p> <p>24 MR. PYSER: Well, as you were</p>

<p style="text-align: right;">Page 166</p> <p>1 pointing out earlier, the depo protocol 2 requires certain things. One of them is 3 that you have a copy for counsel. 4 MR. FULLER: Sure. Why don't we 5 go ahead and take our lunch break now, 6 and we'll go make copies. 7 MR. PYSER: That's fine. 8 THE VIDEOGRAPHER: The time is now 9 12:18. Going off the record. 10 - - - 11 Thereupon, at 12:18 p.m. a lunch 12 recess was taken until 1:23 p.m. 13 - - - 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Fair enough. 2 So you have no recollection and no 3 one showed you this document before today, 4 correct? 5 A. No. 6 Q. Fair enough. 7 So this is -- 8 MR. FULLER: What number is it? 9 Did we give it a number yet? 10 MS. SHIVERS: It's 9. 11 BY MR. FULLER: 12 Q. Okay. This is Plaintiff's 3868, 13 but, Mr. Hartman, for the purposes of the 14 deposition, it's going to be Exhibit 9. Now, at 15 the top of this document, it indicates that it's 16 the Drug Distribution Compliance Budget Review, 17 Fiscal Year 2007. 18 Do you see that there? 19 A. Yes. 20 Q. And so this is a fiscal year 2007, 21 which is going to start in July of 2006, 22 correct? 23 A. I think we can assume that, right. 24 Q. Okay. So this may be sometime,</p>
<p style="text-align: right;">Page 167</p> <p>1 Thursday Afternoon Session 2 November 15, 2018 3 1:23 p.m. 4 - - - 5 THE VIDEOGRAPHER: The time is now 6 1:23. Back on the record. 7 CROSS-EXAMINATION (CONT'D.) 8 BY MR. FULLER: 9 Q. All right, Mr. Hartman. Before we 10 took the lunch break, we were talking a little 11 bit about the staffing issues and the regulatory 12 department. I think, just so it's clear, we 13 looked previously at the 2005 time frame; is 14 that correct? 15 A. Yes. 16 Q. Okay. I'll provide you with 3868. 17 I'll provide it to your counsel, and he can pass 18 it out. 19 Had you seen this document before 20 today? 21 A. I don't recall seeing it, and -- 22 Q. So you -- 23 A. I don't recall seeing this 24 document. Yeah, this is prior to my time, I 25 think.</p>	<p style="text-align: right;">Page 169</p> <p>1 like we talked about earlier, the budgetary 2 process in the first part of 2006 before the 3 budget becomes active in July? 4 A. Sure. 5 Q. Okay. And this talks about it's 6 the Department Budget Highlights/Assumptions - 7 Bullet Point, budgetary variance from forecast, 8 new hires, organizational chart, expenses, '07 9 budget trend, and the actual/forecast trend from 10 2006; is that correct? 11 A. Yes. 12 Q. Okay. So, for example, this would 13 be part of the process you would have gone 14 through after you arrived in December of 2007. 15 You would have went through that process 16 sometime in the first part of 2008; is that 17 fair? 18 A. Yes, I would have -- 19 Q. Okay. 20 A. -- in some regard. 21 Q. So let's turn to the next page. 22 You see the budgetary -- or excuse me -- 23 "Compliance Budget Review, Fiscal Budget 24 Highlights and Assumptions."</p>